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October 27, 2021

By ECF

The Hon. Analisa Torres
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

***Re: United States v. Mostafa Kamel Mostafa,
04 Cr. 356 (AT)***

Dear Judge Torres:

I represent Defendant Mostafa Kamel Mostafa in the above-referenced matter and write to respectfully request that this Court issue an order directing the Clerk of the Court of the Southern District of New York to return to Mr. Mostafa the special assessment previously paid to the Court in relation to two counts of conviction that have since been reversed by the Second Circuit Court of Appeals.

By way of background, Mr. Mostafa was convicted on an eleven-count indictment charging hostage taking and terrorism related offenses. As part of the Judgment Order, the Hon. Katherine B. Forrest imposed a Special Assessment of \$1,100.00 (*i.e.*, \$100 per count of conviction), which has since been paid by Mr. Mostafa in full.

In an opinion, dated, October 23, 2018, the Second Circuit reversed Mr. Mostafa's convictions on Counts 7 and 8, while affirming his convictions on all other counts. By reversing Mr. Mostafa's convictions on Counts 7 and 8, the special assessment, which was imposed only as a result of those counts of conviction, *see* 18 U.S.C. § 3013(a)(2)(A), cannot stand, *see Dhinsa v. Krueger*, 917 F.3d 70, 78-79 (2d Cir. 2019) (recognizing that "special assessments are part of [a defendant's] sentence, as listed in the criminal judgment," and if a defendant succeeds in challenging the convictions related to those assessments, that defendant is then "entitled to seek return of the related special assessments."), *citing*, *Prost v. Anderson*, 636 F.3d 578, 582 n.3 (10th Cir. 2011). As such, because the Second Circuit reversed Mr. Mostafa's convictions on Counts 7 and 8, he is now entitled to a return of the Special Assessment related to those two counts of conviction.

Accordingly, Defendant Mostafa Kamel Mostafa, by and through counsel, respectfully requests that this Court issue an order directing the Clerk of the Court of the

The Hon. Analisa Torres
October 27, 2021
Page 2 of 2

Southern District of New York to return Mr. Mostafa's Special Assessment related to Counts 7 and 8 by depositing \$200.00 in Mr. Mostafa's Bureau of Prisons commissary account.

The check should be made payable to "Mostafa Kamel Mostafa (#67495-054)" and sent to his commissary account at the following address:

Mostafa Kamel Mostafa (#67495-054)
Federal Bureau of Prisons
P.O. Box 474701
Des Moines, Iowa 50947-0001

Thank you for your time and consideration.

Respectfully submitted,



Michael K. Bachrach
Attorney for Mustafa Kamel Mostafa

cc: All parties of record (by ECF)
Mostafa Kamel Mostafa (by USPS mail)